IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

OP.No. 34132 of 2002(L)

PETITIONER:

TRIVANDRUM TENNIS CLUB, REPRESENTED
BY ITS HON.SECRETARY, KAWDIAR, TRIVANDRUM-3.

BY ADV. SRI.N.NANDAKUMARA MENON
SRI.K.VINODKUMAR
SRI.P.K.MANOJKUMAR
SMT.LAKSHMI.N.MENON

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY, LABOUR DEPARTMENT, GOVERNMENT OF KERALA, TRIVANDRUM.

2. THE DY.LABOUR COMMISSIONER AND SECRETARY, STATE ADVISORY CONTRACT LABOUR BOARD, TRIVANDRUM.

3. B.B.RAMACHANDRAN, PLAVUNILKUNNAVILA VEEDU, MYLUM, CHIRIYAKONNI P.O. ARUVIKKARA, TRIVANDRUM.

BY SR.GOVERNMENT PLEADER SRI.P.K.RAVIKRISHNAN

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 27/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.34132 OF 2002)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the order dtd.12.9.2002 issued by R2.

Ext.P2: Copy of the hearing note dtd.1.8.2002 submitted by the petitioner before R2.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

O.P.NO. 34132 OF 2002 - L

Dated this the 27th day of March, 2007

J U D G M E N T

The petitioner is a private club registered under the Travancore Cochin, Literary, Scientific and Charitable Societies Registration Act, 1955, established with the object of promoting and developing the game of tennis and for maintaining high standard game of tennis in the State as also to arrange, regulate and manage tennis tournaments, exhibition of matches in addition to promote social intercourse among the members of the club. The petitioner is challenging Ext.P1 order of the authority appointed under Section 20 of the Minimum Wages Act holding that the petitioner's establishment is a shop as defined under the Act and therefore, the petitioner is liable to pay minimum wages as prescribed in the notification applicable to Shops and Commercial Establishments Act.

2. The contention of the petitioner is that the club functions on the basis of mutual relationship between the members of the club and the public has no access to the club or its activities. As such, according to counsel for the petitioner, the petitioner will not come within the purview of the Shops and

Commercial Establishments Act and therefore, the employment of the workers in the club is not one of the scheduled employments under the Minimum Wages Act and therefore, Ext.P1 is liable to be quashed.

3. The learned Government Pleader has filed a counter affidavit with the help of which he strongly disputes the contentions raised by the petitioner.

4. I have heard both sides. The learned Single Judge of this Court had in a decision reported in **Cochin Yacht Club** v. **State of Kerala** (2006(3) KLT 67), in the context of the Labour Welfare Fund Act, 1975 held that a club which is registered as society is also an establishment under the provisions of that Act. In that decision, the learned Single Judge considered the question as to whether clubs running on mutual relationship between members can be said to be a shop or commercial establishment and came to the conclusion that they can be.

5. I am in agreement with the said decision and therefore, I am satisfied that the petitioner is not entitled to any reliefs in this writ petition. Accordingly, following the above said judgment, I hold that for the purpose of Minimum Wages Act also,

the petitioner is liable to be considered as a shop which would come within one of the scheduled employments under the Minimum Wages Act. In the above circumstances, I find no merit in the writ petition which is accordingly dismissed.

S. SIRI JAGAN,
Judge

Mbs/

K.THANKAPPAN, J

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Crl.Appeal NO. OF 2001

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J U D G M E N T

DATED:13-02-2007

S.SIRI JAGAN,
Judge

Mbs/